

DEFENSE

**Agreement Between the
UNITED STATES OF AMERICA
and BRAZIL**

Effected by Exchange of Notes
Signed at Washington June 2, 2000



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

BRAZIL

Defense

*Agreement effected by exchange of notes
Signed at Washington June 2, 2000;
Entered into force October 19, 2000.*

DEPARTMENT OF STATE
WASHINGTON

Excellency:

I have the honor to refer to earlier discussions between the representatives of our two governments regarding grants under the Foreign Assistance Act of 1961, as amended, or successor legislation, and the furnishing of defense articles from the United States of America to the Government of the Federative Republic of Brazil.

In accordance with those discussions, I have the honor to propose that the Government of the Federative Republic of Brazil agree:

- A. That the Government of the Federative Republic of Brazil shall not, unless the consent of the Government of the United States of America has been first obtained:
- (i) permit any use of any such defense articles or related training or other defense services by anyone not an officer, employee or agent of the Government of the Federative Republic of Brazil;
 - (ii) transfer or permit any officer, employee or agent of the Government of the Federative Republic of Brazil to transfer such articles or related training or other defense services by gift, sale or otherwise;

His Excellency

Rubens Antonio Barbosa,

Ambassador of Brazil.

(iii) use or permit the use of such articles or related training or other defense services for purposes other than those for which provided;

B. That said articles or related training or defense services shall be returned to the Government of the United States of America when they are no longer needed for the purposes for which they were furnished, unless the Government of the United States of America consents to another disposition;

C. That the net proceeds of sale received by the Government of the Federative Republic of Brazil in disposing of, with prior written consent of the United States of America, any defense related articles furnished by the Government of the United States of America on a grant basis, including scrap from any such defense articles, shall be paid to the Government of the United States of America;

D. That the Government of the Federative Republic of Brazil shall maintain the security of such articles, related training, and other defense services; that it shall provide substantially the same degree of security protection afforded to such articles or related training or other defense services by the Government of the United States of America; that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives of

the Government of the United States of America with regard to the use thereof by the Government of the Federative Republic of Brazil; and

E. That the Government of the United States of America may also from time to time make the provision of other defense articles, related training and other defense services furnished under authority (except the United States Arms Export Control Act) subject to the terms of this Agreement. (Transfers under the United States Arms Export Control Act shall continue to be governed by the requirements of that Act and United States regulations applicable to such transfers.)

If the proposal set forth here in acceptable to the Government of the Federative Republic of Brazil, I have the honor to propose that this note together with Your Excellency's reply to that effect shall constitute an agreement between our two governments, which shall enter into force on the date that the Government of the Federative Republic of Brazil informs the Government of the United States of America that all of the internal legal requisites in Brazil have been completed.

Accept, Excellency the renewed assurances of my
highest consideration.

For the Secretary of State

John F. Andrew
6/2/00

**U.S. Department of State
Office of Language Services
Translating Division**

LS No. 1210034
JPM/ME
Portuguese

Washington, June 2, 2000

Excellency:

I have the honor to acknowledge receipt of Your Excellency's note of today, which reads as follows in Portuguese:

[The Portuguese translation of Secretary Albright's note of June 2, 2000, agrees in all substantive respects with the original English text, with the following exceptions:

First Paragraph

English: ...and the furnishing of defense articles from the United States of America...

Portuguese: ...and the furnishing of defense articles, related training and other defense services by the United States of America...

First Paragraph

English: ...to the Government of the Federative Republic of Brazil.

Portuguese: ...to the Brazilian Government.

[Note: This possible discrepancy occurs throughout the translation.]

Paragraph D

English: ...that it shall, as the United States may require, permit continuous observation and review by, and furnish necessary information to, representatives....

Portuguese: ...that it shall, as the United States may require, permit continuous observation and review and furnish necessary information to representatives....

[Note: The Portuguese text does not make it clear that it is the representatives who are doing the observing and reviewing.]

I have the honor to inform Your Excellency that the foregoing proposal is acceptable to the Government of the Federative Republic of Brazil and that Your Excellency's note and this note in reply shall constitute an agreement between the Federative Republic of Brazil and the United States of America, which shall enter into force on the date that the Brazilian Government informs the Government of the United States of America that all internal legal requisites in Brazil have been completed.

I avail myself of this opportunity to renew to Your Excellency the assurances of my high consideration.

[Signature]

Rubens Antônio Barbosa
Ambassador of the Federative Republic of Brazil

Her Excellency
Madeleine Albright,
Secretary of State of the
United States of America.

Washington, 2 de junho de 2000.

Excelentíssima Senhora Secretária de Estado,

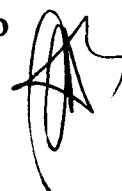
Tenho a honra de acusar o recebimento da Nota de Vossa Excelência, com data de hoje, cujo teor em português é o seguinte:

“Tenho a honra de dirigir-me a Vossa Excelência para referir-me às discussões mantidas anteriormente pelos representantes de nossos dois Governos, relativas à ajuda no âmbito da Lei de Assistência ao Exterior, de 1961, tal qual emendada, ou de acordo com legislação subsequente, e ao fornecimento, pelos Estados Unidos da América, de materiais de defesa, treinamento correlato e outros serviços de defesa ao Governo brasileiro.

De acordo com as referidas discussões, propõe-se que o Governo brasileiro concorde em que:

a) a menos que haja consentimento prévio do Governo dos Estados Unidos da América, o Governo brasileiro não:

1) permitirá qualquer uso de qualquer material de defesa ou treinamento correlato ou outro serviço de defesa por quem não seja funcionário, empregado ou agente do Governo brasileiro;



A Sua Excelência a Senhora
Madeleine Albright
Secretária de Estado dos
Estados Unidos da América

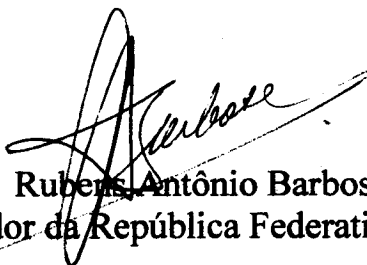
- II) transferirá ou permitirá que qualquer funcionário, empregado ou agente do Governo brasileiro transfira tais materiais ou treinamento correlato ou outros serviços de defesa como doação, venda ou qualquer outra modalidade; ou
- III) utilizará ou permitirá a utilização de tais materiais, ou treinamento correlato, ou outros serviços de defesa para fins que não aqueles para os quais foram fornecidos;
- b) os mencionados materiais ou treinamento correlato ou serviços de defesa serão restituídos ao Governo dos Estados Unidos da América quando não forem mais necessários para os propósitos para os quais foram fornecidos, a menos que o Governo dos Estados Unidos da América aprove outra disposição;
- c) o montante líquido das vendas recebido pelo Governo brasileiro ao transferir, com o consentimento prévio, por escrito, do Governo dos Estados Unidos da América, qualquer artigo de defesa fornecido pelo Governo dos Estados Unidos da América a título de doação, incluindo material inservível de qualquer desses artigos de defesa, deverá ser pago ao Governo dos Estados Unidos da América.
- d) o Governo brasileiro manterá a segurança dos referidos materiais, treinamento correlato e de outros serviços de defesa; proporcionará substancialmente o mesmo nível de proteção de segurança dado pelo Governo dos Estados Unidos da América a tais artigos ou treinamento correlato ou outros serviços de defesa; à medida que os Estados Unidos da América solicitar, o Governo brasileiro permitirá a observação contínua e avaliação e proporcionará informações necessárias aos representantes do Governo dos Estados Unidos da América com relação à sua utilização pelo Governo brasileiro; e
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- e) o Governo dos Estados Unidos da América poderá também esporadicamente fornecer outros materiais de defesa, treinamento correlato e outros serviços de defesa de conformidade com outra legislação (exceto a Lei de Controle de Exportação de Armas dos Estados Unidos), sujeito aos termos e condições deste Acordo. (as transferências feitas sob a Lei de Controle de Exportação de Armas dos Estados Unidos continuarão a ser regidas pelos requerimentos daquela lei e dos regulamentos dos Estados Unidos aplicáveis à tais transferências).

A resposta de Vossa Excelência indicando a anuência do Governo brasileiro ao que precede deverá, juntamente com a presente Nota, constituir um Acordo entre os nossos Governos, a entrar em vigor na data da nota em que o Governo da República Federativa do Brasil informar o Governo dos Estados Unidos da América de que foram cumpridos todos os requisitos legais internos no Brasil.”

Tenho a honra de informar Vossa Excelência de que as propostas acima são aceitáveis para o Governo da República Federativa do Brasil, o qual concorda que a Nota de Vossa Excelência juntamente com a presente resposta constituam um Acordo entre a República Federativa do Brasil e os Estados Unidos da América, a entrar em vigor na data da nota em que o Governo brasileiro informar o Governo dos Estados Unidos da América do cumprimento de todos os requisitos legais internos no Brasil.

Aproveito a oportunidade para renovar a Vossa Excelência os protestos de minha mais alta consideração.



Rubens Antônio Barbosa
Embaixador da República Federativa do Brasil